

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST COMPANY  
AMERICAS (FKA BANKERS TRUST  
COMPANY) and JP MORGAN CHASE  
BANK in their separate capacities and as  
agents for the pre- and post-petition lenders of  
Fleming Companies, Inc.; GENERAL  
ELECTRIC CAPITAL CORPORATION;  
C&S WHOLESALE GROCERS, INC.; THE  
POST-CONFIRMATION TRUST OF  
FLEMING COMPANIES, INC.; ROBERT  
KORS; CORE-MARK HOLDINGS INC. and  
DOES 1 to 200

Defendants.

Case No. 01:07 CV 7634 (WHP)  
ECF Case

AFFIDAVIT OF THERESA BAUMANN IN SUPPORT OF THE PCT'S AND ROBERT  
KORS' MOTION FOR SUMMARY JUDGMENT

**AFFIDAVIT OF THERESA BAUMANN**

I, THERESA BAUMANN, declare as follows:

1. I am married to Michael Baumann, and we currently reside together in Los Angeles County. I have personal knowledge of the facts set forth herein and, if called to testify, could and would testify competently thereto.

2. Mike traveled to Honolulu, Hawaii on August 13, 2007 for a hearing. He was scheduled to return the following day.

3. After Mike arrived in Hawaii, he called me to tell me his hearing had been cancelled and that he was flying back to Los Angeles on the redeye that evening.

4. Mike arrived at our home at around 7:30 am on August 14, 2007. He took a nap and then worked out of our home the remainder of the day.

So sworn under penalty of perjury under the laws of the United States of America in Los Angeles, California, on February 25, 2008.

  
Theresa Baumann

## CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)  
☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 (if any) \_\_\_\_\_

State of California

County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me on this

25th day of FEBRUARY, 2008, by  
Date Month Year

(1) THERESA BAUMANN  
Name of Signer

proved to me on the basis of satisfactory evidence  
to be the person who appeared before me (.) *(X)*

(and

(2) \_\_\_\_\_  
Name of Signer

proved to me on the basis of satisfactory evidence  
to be the person who appeared before me.)

Signature

*Neal San Diego*  
Signature of Notary Public



Place Notary Seal Above

### OPTIONAL

*Though the information below is not required by law, it may prove  
valuable to persons relying on the document and could prevent  
fraudulent removal and reattachment of this form to another document.*

#### Further Description of Any Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER #1

Top of thumb here

RIGHT THUMBPRINT  
OF SIGNER #2

Top of thumb here